



4312-EJ

## **DEPARTMENT OF THE INTERIOR**

### **National Park Service**

#### **36 CFR Part 7**

**[NPS-LAMR-13812; PPIMLAMRS0,PPMPSPD1Z.YM0000]**

**RIN 1024-AE12**

### **Special Regulations, Areas of the National Park System, Lake Meredith National Recreation Area, Bicycling**

**AGENCY:** National Park Service, Interior

**ACTION:** Proposed rule.

**SUMMARY:** Through the preparation of a Multi-Use Trail Environmental Assessment, the National Park Service has decided to construct an unpaved, multi-use recreational trail in Lake Meredith National Recreation Area. The multi-use trail will be approximately 22 miles in length and be open to pedestrian and bicycle use only. National Park Service regulations require promulgation of a special regulation to designate new routes for bicycle use off park roads and outside developed areas. The multi-use trail will consist of five contiguous sections constructed in five phases, as resources become available. This multi-use trail will help address the lack of land-based recreational opportunities in the region; increase the availability of interpretive resources in the recreation area; provide a firebreak at the urban-wildland interface; and improve access for emergency response personnel.

**DATES:** Comments must be received by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** You may submit your comments, identified by Regulation Identifier Number (RIN) 1024-AE12, by any of the following methods:

- Federal eRulemaking Portal: *<http://www.regulations.gov>*. Follow the instructions for submitting comments.
- Mail: Lake Meredith National Recreation Area, P.O. Box 1460, Fritch, TX 79036
- Hand Deliver to: Superintendent's Office, Fritch, TX.

Instructions: All submissions received must include the agency name and docket number or RIN for this rulemaking. All comments received will be posted without change to *<http://www.regulations.gov>*, including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the "Public Participation" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket:* For access to the docket to read background documents or comments received, go to *<http://www.regulations.gov>*.

**FOR FURTHER INFORMATION CONTACT:** Arlene Wimer, Chief of Resource Management, Lake Meredith National Recreation Area, at 806-857-0309 or at the address listed in the **ADDRESSES** section.

## **SUPPLEMENTARY INFORMATION:**

### **Background**

Congress established Lake Meredith National Recreation Area (LAMR or recreation area) in 1990 “to provide for public outdoor recreation use and enjoyment of the lands and waters associated with Lake Meredith in the State of Texas, and to protect the scenic, scientific, cultural, and other values contributing to the public enjoyment of such lands and waters . . . .”

Situated approximately 35 miles north of Amarillo, Texas within Potter, Moore, Hutchinson, and Carson counties, LAMR is approximately 45,000 acres in size and is the largest public landmass in the Texas Panhandle.

### **Purpose of Multi-Use Trail.**

#### *Recreational Opportunities.*

LAMR provides water-based public recreational opportunities such as fishing, boating, water skiing, and swimming. However, dropping water levels have caused a substantial loss of public access to the lake and a corresponding reduction in water-based recreational opportunities. Visitation to the recreation area has declined over the last 10 years, and lower water levels and reduced access could be a contributing factor to this decline in use. Water levels are not expected to increase in the near future, and the addition of a multi-use trail could provide visitors with an alternative, land-based form of recreation which may attract more visitors to LAMR.

LAMR provides some land-based recreational opportunities, such as hiking, horseback riding, hunting, off-road vehicle use, and camping. Over the past several years, bicycling has become more popular in the Texas Panhandle, as evidenced by increased bike use at nearby Palo Duro Canyon State Park. A multi-use trail at LAMR will help address the increasing demand for bike trails in the Texas Panhandle. The multi-use trail will also provide additional hiking opportunities on the trail, and primitive camping opportunities in Turkey Creek Canyon.

#### *Interpretive Resources.*

LAMR contains natural and cultural resources that are unique to the region. The natural and geologic resources of the recreation area have enabled human survival, subsistence, and adaptation that have resulted in a continuum of human presence in the area for more than 13,000 years. Cultural sites in LAMR and the adjacent Alibates Flint Quarries National Monument offer

views of lifeways in cultural periods from the Paleo Indians (9,500 BC – 6,000 BC) to the present day. The exposed geologic features on the walls of the Canadian River valley (i.e. the “breaks”) reveal active geologic processes that are easily visible to an extent not present elsewhere in the region. The topography and geography of the Canadian River breaks create a divergence from the surrounding landscape that offers scenic values and opportunities not found elsewhere in the region.

Despite these extraordinary resources, LAMR lacks interpretive facilities to allow visitors to fully understand and appreciate them. The proposed multi-use trail will allow visitors to experience additional areas of the recreation area that visitors cannot currently access, while educating and promoting stewardship for LAMR’s natural and cultural resources. Kiosks will be installed at the two trail heads located at Harbor Bay, providing visitors with trail rules, maps, advisories, closures, and safety precautions. Interpretive signage and trail markers will be primitive and placed at appropriate locations along the trail to provide information on cultural and natural resources and to ensure visitors remain on trails and do not get lost or damage recreation area resources.

#### *Wildfires and Public Safety.*

Wildfires pose a substantial threat to public safety in and around LAMR. The elimination of grazing operations in the recreation area and periods of prolonged drought have increased the potential for catastrophic wildfire events. The number and location of roads and trails in the recreation area are limited, and as such, firefighting crews have difficulty accessing certain areas of the recreation area. The proposed multi-use trail will serve as a firebreak and will provide firefighting crews additional access to previously inaccessible areas in the event of a wildfire. Construction of the trail will also provide emergency service access to hard to reach areas of the

recreation area, reducing response times for emergency and rescue teams and improving visitor safety.

### **Environmental Assessment.**

In January 2010, LAMR published the Multi-Use Trail Environmental Assessment (EA). The EA evaluated two alternatives. Under the no action alternative (Alternative A), the multi-use trail would not be constructed. Under the action alternative (Alternative B), the multi-use trail would be constructed. On January 17, 2012, the National Park Service (NPS) signed a Finding of No Significant Impact (FONSI) which identified Alternative B as the selected action and concluded that constructing the multi-use trail will not have a significant effect on the human environment. Under Alternative B, LAMR will construct the multi-use trail in five phases totaling approximately 22 miles. Phase One will be located in the Harbor Bay and Fritch Canyon area; Phase Two will be between Harbor Bay and Short Creek; Phase Three will be located between Short Creek and South Turkey Creek; Phase Four will start at the mouth of South Turkey Creek and continue up the canyon; and Phase Five will be located between Fritch Fortress and the northern portion of phase one. Construction of each phase will occur as funding becomes available. To date, the park has constructed two miles of trail and plans to complete an additional six miles this fall 2013.

The EA and FONSI, which contain a full description of the purpose and need for taking action, the alternatives considered, public comments on the alternatives, maps of the proposed multi-use trail, and the environmental impacts associated with the project, may be viewed on the recreation area's planning website at <http://parkplanning.nps.gov/lamr>, by clicking on the link entitled "Archived Projects" and then clicking the link entitled "Lake Meredith Recreation Area Multi-Use Trail" and then clicking on the link entitled "Document List."

**Proposed Rule.**

This proposed rule complies with the general requirement of 36 CFR 4.30, which requires a special regulation to designate new bicycle routes off park roads and outside of developed areas. However, because the planning process for this trail was completed prior to the recent revisions to 36 CFR 4.30 (as stated in the preamble to the final rule which can be found at 77 FR 39927, July 6, 2012), LAMR is not required to comply with the new requirements for bicycle routes. The proposed rule would add a new paragraph (h) to the special regulations for LAMR (36 CFR 7.57), authorizing designation of the proposed 22-mile-long multi-use trail as a route for bicycle use. The proposed rule would also authorize the Superintendent to impose closures or restrictions for bicycle use on designated routes after taking into consideration public health and safety, resource protection, and other management activities and objectives, provided public notice is given under 36 CFR 1.7.

**Compliance with Other Laws, Executive Orders and Department Policy.****Regulatory Planning and Review (Executive Orders 12866 and 13563).**

Executive Order 12866 provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget will review all significant rules. The Office of Information and Regulatory Affairs has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of Executive Order 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. Executive Order

13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

**Regulatory Flexibility Act.**

This rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This certification is based on information contained in the economic analyses found in the report entitled “Cost-Benefit and Regulatory Flexibility Analyses: Proposed Regulations for Trail Management in Lake Meredith Recreation Area” which is available online at <http://parkplanning.nps.gov/lamr> by clicking on the link entitled “Archived Projects” and then clicking the link entitled “Lake Meredith Recreation Area Multi-Use Trail” and then clicking on the link entitled “Document List.”

**Small Business Regulatory Enforcement Fairness Act.**

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

- (a) Does not have an annual effect on the economy of \$100 million or more.
- (b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.
- (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

**Unfunded Mandates Reform Act.**

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than \$100 million per year. The rule does not have a significant or

unique effect on State, local or tribal governments or the private sector. It addresses public use of national park lands, and imposes no requirements on other agencies or governments. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

**Takings (Executive Order 12630).**

This rule does not affect a taking of private property or otherwise have takings implications under Executive Order 12630. A takings implication assessment is not required.

**Federalism (Executive Order 13132).**

Under the criteria in section 1 of Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism summary impact statement. This proposed rule only affects use of NPS administered lands and waters. It has no outside effects on other areas. A Federalism summary impact statement is not required.

**Civil Justice Reform (Executive Order 12988).**

This rule complies with the requirements of Executive Order 12988. Specifically, this rule:

- (a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and
- (b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

**Consultation with Indian tribes (Executive Order 13175 and Department Policy).**

The Department of the Interior strives to strengthen its government-to-government relationship with Indian Tribes through a commitment to consultation with Indian Tribes and recognition of their right to self-governance and tribal sovereignty. We have evaluated this rule



under the Department's consultation policy and under the criteria in Executive Order 13175 and have determined that it has no substantial direct effects on federally recognized Indian tribes and that consultation under the Department's tribal consultation policy is not required. During the EA process, NPS consulted with the 10 Native American groups associated with LAMR and determined that there are no potential effects.

**Paperwork Reduction Act.**

This rule does not contain information collection requirements, and a submission to the Office of Management and Budget under the Paperwork Reduction Act is not required. We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

**National Environmental Policy Act.**

We prepared the EA to determine whether this rule will have a significant impact on the quality of the human environment under the National Environmental Policy Act of 1969. This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 is not required because we reached a FONSI. A copy of the EA and FONSI can be found online at <http://parkplanning.nps.gov/lamr> by clicking on the link entitled “Archived Projects” and then clicking the link entitled “Lake Meredith Recreation Area Multi-Use Trail” and then clicking on the link entitled “Document List,” or may be obtained by contacting: Superintendent, Lake Meredith National Recreation Area, P.O. Box 1460, Fritch, TX 79036.

**Effects on the Energy Supply (Executive Order 13211).**

This rule is not a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects is not required.

**Clarity of this rule.**

We are required by Executive Orders 12866 (section 1(b)(12)) and 12988 (section 3(b)(1)(B)), and 13563 (section 1(a)), and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

- (a) Be logically organized;
- (b) Use the active voice to address readers directly;
- (c) Use common, everyday words and clear language rather than jargon;
- (d) Be divided into short sections and sentences; and
- (e) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in the **ADDRESSES** section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that you find unclear, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

**Drafting Information:** The primary authors of this regulation are Arlene Wimer, Chief of Resources, Lake Meredith National Recreation Area; Cheryl Eckhardt, Environmental Quality Specialist, National Park Service Intermountain Region; and Jay P. Calhoun, Regulations Program Specialist, National Park Service.

**Public availability of comments.**

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment – including your personal identifying information – may be made publicly available at any time.

While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

### **Public Participation.**

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments regarding this proposed rule by one of the methods listed in the **ADDRESSES** section.

### **List of Subjects in 36 CFR Part 7**

National parks, Reporting and Recordkeeping requirements.

In consideration of the foregoing, the National Park Service proposes to amend 36 CFR Part 7 as set forth below:

### **PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM**

1. The authority citation for Part 7 continues to read as follows:

**Authority:** 16 U.S.C. 1, 3, 9a, 462(k); Sec. 7.96 also issued under 36 U.S.C. 501-511, D.C. Code 10-137 (2001) and D.C. Code 50-2201 (2001).

2. In § 7.57 add paragraph (h) to read as follows:

#### **§ 7.57 Lake Meredith National Recreation Area.**

\* \* \* \* \*

(h) *Bicycling*. (1) The Superintendent may designate for bicycle use routes or portions of routes in the following sections of the park's multi-use recreational trail:

(i) Harbor Bay-Fritch Canyon area (approximately 5.7 miles);

(ii) Harbor Bay Short-Creek area (approximately 3.3 miles);

(iii) Short Creek-South Turkey Creek area (approximately 2.8 miles);

(iv) South Turkey Creek area (approximately 4.4 miles); and

(iv) Fritch Fortress area (approximately 5.2 miles).

(2) Designation of bicycle routes or portions of routes shall be implemented with a written determination that the route is open for public use and that such bicycle use is consistent with the protection of the park area's natural, scenic and aesthetic values, safety considerations and management objectives, and will not disturb wildlife or park resources. Notice may be provided by posting signs and identifying routes on maps which shall be available in the office of the Superintendent and on the park's website.

(3) The Superintendent may open or close designated bicycle routes, or portions thereof, or impose conditions or restrictions for bicycle use after taking into consideration public health and safety, natural and cultural resource protection, carrying capacity, and other management activities and objectives.

(i) The Superintendent will provide public notice of all such actions through one or more of the methods listed in § 1.7 of this chapter.

(ii) Violating a closure, condition, or restriction is prohibited.

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Rachel Jacobson  
Principal Deputy Assistant Secretary for Fish and Wildlife and Parks

**November 20, 2013**  
Dated

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